

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

ROBIN GLACE, MARGARET
KINNAMON, SHERRY MCCANE and
DIXIE SEMANS,

Plaintiffs,

v.

INTERNAL MEDICINE OF
BRIDGEVILLE, a sole proprietorship
operating in the State of Delaware,
KENNETH R. SMITH, M.D., individually
as sole proprietor of Internal Medicine of
Bridgeville

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C.A. NO.:06-767

Trial by Jury Demanded

ANSWER TO COMPLAINT

1. Denied.
2. Defendant is without sufficient information to admit or deny this allegation
therefore it is denied.
3. Defendant is without sufficient information to admit or deny this allegation
therefore it is denied.
4. Denied.

II. THE PLAINTIFFS

5. First sentence—Defendant is without sufficient information to admit or deny
this allegation therefore it is denied.

Second sentence —Denied.

Third sentence —Admitted.

Fourth sentence—Denied.

6. First sentence—Defendant is without sufficient information to admit or deny this allegation therefore it is denied.

Second sentence —Denied.

Third sentence—Admitted that she began employment on or about September 15, 2003 as a medical assistant/receptionist. Denied as to the remaining portion of the allegations.

7. First sentence —Defendant is without sufficient information to admit or deny this allegation therefore it is denied..

Second sentence —Denied.

Third sentence—Admitted she began employment on or about the end of July or August 2000 as a receptionist but denied as to the remaining portions of the allegations.

8. First sentence —Defendant is without sufficient information to admit or deny this allegation therefore it is denied.

Second sentence —Denied.

Third sentence —Admitted she began employment on or about July 7, 2003 as a file clerk/receptionist but denied as to the remaining portions of the allegations.

III. THE DEFENDANTS AND THEIR AGENT

9. Admitted.

10. First sentence —Admitted.

Second sentence —Admitted.

Third sentence—Defendants are without sufficient information to admit or deny this allegation therefore it is denied.

Fourth sentence —Admitted.

Fifth sentence—Denied.

Sixth sentence—Denied.

Seventh sentence—Denied.

11. First sentence —Admitted.

Second sentence —Admitted.

Third sentence —Admitted.

Fourth sentence—Denied.

12. Denied.

13. Denied as to all allegations of this paragraph.

IV. THE FACTS WITH REGARD TO THE SEXUAL HARASSMENT OF
PLAINTIFF GLACE

14. First sentence —Admitted.

Second sentence —Admitted.

Third sentence—Denied.

15. Denied.

a. Denied.

b. Denied.

c. Denied.

d. Denied.

e. Denied.

f. Denied.

g. Denied.

h. Denied.

i. Denied.

j. Denied.

k. Denied.

l. Denied.

i. Denied.

ii. Denied.

iii. Denied.

iv. Denied.

v. Denied.

V. THE FACTS WITH REGARD TO THE SEXUAL HARASSMENT OF PLAINTIFF

KINNAMON

16. First sentence —Admitted.

Second sentence—Denied.

17. Denied.

a. Denied.

b. Denied.

c. Denied.

i. Denied.

ii. Denied.

iii. Denied.

VI. THE FACTS WITH REGARD TO THE SEXUAL HARASSMENT OF
PLAINTIFF MCCANE

18. First sentence —Admitted.

Second sentence—Denied.

19. a. Denied.

b. Denied.

c. Denied.

d. Denied.

e. Denied.

f. Denied.

i. Denied.

ii. Denied.

iii. Denied.

iv. Denied.

VII. THE FACTS WITH REGARD TO THE SEXUAL HARASSMENT OF
PLAINTIFF SEMANS

20. First sentence—Admitted.

Second sentence—Denied.

21. Denied.

a. Denied.

b. Denied.

c. Denied.

d. Denied.

e. Denied.

f. Denied.

g. Denied.

h. Denied.

i. Denied.

j. Denied.

k. Denied.

l. Denied.

i. Denied.

ii. Denied.

iii. Denied.

VII. INSTANCES WHERE DEFENDANTS WERE PUT ON NOTICE

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

VII. FURTHER RETALIATORY ADVERSE ACTION AGAINST PLAINTIFFS

28. Denied.

a. Denied.

- b. Denied.
- c. Denied.
- d. Denied.
- e. Denied.
- f. Denied.

COUNT I—INTIMIDATING, HOSTILE OR OFFENSIVE WORK ENVIRONMENT

- 29. Defendants repeat and reassert responses to paragraph 1-28 as set out above.
- 30. Denied.
- 31. Denied.
- 32. Denied.
- 33. Denied.
- 34. Denied.

COUNT II—CONSTRUCTIVE DISCHARGE

- 35. Defendants repeat and reassert responses to paragraphs 1-34 as set out above.
- 36. Denied.
- 37. Admitted that Plaintiffs resigned but not for reasons set forth in this complaint.
- 38. Denied.
- 39. Denied.
- 40. Denied.

COUNT III—RETALIATION

- 41. Defendants and reassert paragraphs 1-40 set out above.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs fail to state claims for which they are entitled to relief.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs complaint fail to state a claim against Defendants since they are not employers as defined in 42 U.S.C. section 2000e. Thus, under Title VII of the civil rights acts, it is not an appropriate action as to the Defendants

THIRD AFFIRMATIVE DEFENSE

Plaintiffs complaint fails to state a claim upon which relief may be granted against Dr. Smith since individuals are not subject to personal liability under Title VII.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to receive back pay, damages for emotional and stress, or other damages insofar as Plaintiffs have failed to mitigate their damages.

WHEREFORE, the Defendants request that this Court:

- a. Dismiss Plaintiffs complaint in its entirety and award judgment in favor of Defendants.
- b. Award Defendants costs and reasonable attorney's fees; and

- c. Grant to Defendants such other additional relief as this Court deems just and proper under the circumstances of this case.

LIGUORI, MORRIS & YIENGST

/s/ James E. Liguori

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Attorney for Defendants

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CERTIFICATE OF SERVICE

LIGUORI, MORRIS AND YIENGST, Attorneys for the Defendant in the foregoing cause, hereby certify that two copies of Defendants Answer to Complaint were mailed by United States mail, postage prepaid to:

Martin D. Haverly, Esquire
Martin Duane Haverly, Attorney at Law
2 East 7th Street, Suite 302
Wilmington, DE 19801

Dated: January 10, 2007

By: /s/ James E. Liguori, Esquire
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